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MEMO ENDORSED

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January 8, 2015

VIA ECF

Honorable Judge Richard M. Berman
United States District Judge
Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Courtroom 12D
New York, NY 10007

Re: *Rio Tinto v. Vale et al, Civil Action No. 14-cv-3042 (RMB) (S.D.N.Y.)*

Dear Judge Berman:

Rio Tinto respectfully submits this letter in response to Defendants' request for an exception to Rules 2(C) and 2(C)(1) of Your Honor's Individual Practices, which require multiple movants to file joint opening memoranda that are no more than 25 pages and joint reply memoranda that are no more than 10 pages.¹ Defendants' forthcoming 12(b) motions—which will not present complex factual or legal issues—do not justify a deviation that would more than double the total number of pages allowed under the rules. These are, instead, routine, early stage motions that will attempt to attack discrete allegations in a single pleading—Rio Tinto's Amended Complaint. If anything, these particular motions, and Rio Tinto's opposition in response, are precisely the kind that should be written with maximum efficiency in order to minimize the burden on the Court.

It bears further mention that this is Defendants' *second* motion to dismiss, being filed only after Defendants obtained this Court's permission to bifurcate their motions. As a result, Defendants have already submitted 139 pages, inclusive of expert declarations. Defendants have additionally proven capable of abiding the Court's rules in connection with submitting their first *forum non conveniens* motion and their motion to stay discovery, which, in one 25-page submission, included detailed analyses of the same 12(b)(6) and 12(b)(2) issues Defendants intend to re-raise now (Dkt. No. 100). These submissions and other efforts (e.g., joint discovery letters to Judge Peck, and joint presentation at oral argument on their *forum non conveniens* motion) demonstrate Defendants'

¹ Rio Tinto consents to the proposed briefing schedule set out in Defendants' letter.

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ability to work together and otherwise belie Defendants' purported need for additional pages, as many of their grievances have already been aired.

Rio Tinto respectfully notes that it will be under the same 25-page space constraint in responding to Defendants' opening submission on these issues. It also respectfully suggests that the history of motion practice in this litigation only serves to emphasize that adherence to the Court's pre-set page limits will benefit all involved.

Respectfully submitted,

/s/Michael Lyle
Michael Lyle

cc: All counsel of record

Parties are requested to submit by 1/10/15 a joint written status report re: discovery, including what has been accomplished + what remains + timetable. We can discuss Defs' proposed motion at 1/9/15 conference. Suffice to say, less is invariably more both generally + in this case.

SO ORDERED:
Date: 1/9/15


Richard M. Berman, U.S.D.J.